REMARKS/ARGUMENTS

Applicants have received the Office Action dated July 13, 2007, in which the Examiner: 1) rejected claims 1-5, 11-15, 21-22 and 25-32 under 35 U.S.C. § 102(b) as being allegedly anticipated by Hardwick et al. (U.S. Pat. No. 5,550,816, hereinafter "Hardwick"); and 2) rejected claims 6-10, 16-20 and 23-24, under 35 U.S.C. § 103(a) as being allegedly unpatentable over Hardwick in view of Carollo et al. (U.S. Pub. No. 2004/0267866, hereinafter "Carollo"). With this Response, Applicants have amended claims 1, 11 and 21.

I.   REJECTIONS UNDER 35 U.S.C. § 102(b)

As amended, claim 1 requires a virtual switch that is "implemented in software." That is what the term "virtual" means in claim 1 in light of the amendment as well as Applicants' disclosure. Hardwick, however, discloses a "single physical data switch" that is "divided into two or more virtual switches." Col. 6, lines 47-52. Figure 2 in Hardwick is described as a "diagram of a preferred embodiment physical switching device having virtual switches. Col. 12, lines 2-4. Figure 2 itself illustrates that each virtual switch 152, 154 comprises distinct hardware components such as physical data ports 160 and 162, a data unit preprocessor 104, 104' and a processor 108, 108'. Hardwick clearly does not teach or suggest a virtual switch that is "implemented in software" as is required by claim 1.

Claim 1 has also been amended to clarify that the virtual ports are "software-implemented." The data ports 160 and 162 in Hardwick are physical ports, not software-implemented ports.

Claim 1 also requires an "application programming interface (API) [that is] usable by said application to interface with said virtual switch." The Examiner seems to have identified Fig. 2 as well as col. 23, lines 60-65 and col. 34, lines 9-15 as allegedly teaching this limitation. See Office Action p. 2. Applicants have reviewed these descriptions and find no mention whatsoever of an API that is usable to interface with the virtual switches of Hardwick (which are not "virtual switches" in the context of claim 1 as explained above).

For at least these reasons, claim 1 and all claims dependent thereon are allowable over Hardwick.

Claim 11 has been amended to require the virtual switch to be "implemented in software." Claim 11 also requires an API that is usable to interface with the virtual switch. As explained above, Hardwick does not teach either of these features. For at least these reasons, claim 11 and all claims dependent thereon are allowable over Hardwick.

The body of claim 21 has been amended to clarify that the virtual switch is a "software-implemented" virtual switch. Hardwick provides no mention whatsoever of instructions as in claim 1 usable to interact with the claimed software-implemented virtual switch. For at least this reason, claim 11 and all claims dependent thereon are allowable over Hardwick.

Claim 25 requires registering an application with a "software-implemented switch." As explained above, Hardwick has no teaching of a software-implemented switch or the act of registering an applicant with such a switch. For at least these reasons, claim 25 and all claims dependent thereon are allowable over Hardwick.

Claim 30 requires a means for providing an API to a "software implemented switch running on said processor." As explained above, Hardwick has no teaching of a software-implemented switch or an API usable in conjunction with such a switch. For at least these reasons, claim 30 and all claims dependent thereon are allowable over Hardwick.

II. REJECTIONS UNDER 35 U.S.C. § 103(a)

Dependent claims 6-10, 16-20 and 23-24 depend from independent claims allowable over Hardwick as explained above. Such dependent claims inherit the limitations of their base claims. Carollo does not satisfy the deficiencies of Hardwick. Thus, claims 6-10, 16-20 and 23-24 are allowable over Hardwick in view of Carollo for much the same reason as articulated above regarding their base claims.

III.   CONCLUSION

In the course of the foregoing discussions, Applicants may have at times referred to claim limitations in shorthand fashion, or may have focused on a particular claim element. This discussion should not be interpreted to mean that the other limitations can be ignored or dismissed. The claims must be viewed as a whole, and each limitation of the claims must be considered when determining the patentability of the claims. Moreover, it should be understood that there may be other distinctions between the claims and the cited art which have yet to be raised, but which may be raised in the future.

Applicants respectfully request reconsideration and that a timely Notice of Allowance be issued in this case. It is believed that no extensions of time or fees are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 C.F.R. § 1.136(a), and any fees required (including fees for net addition of claims) are hereby authorized to be charged to Hewlett-Packard Development Company's Deposit Account No. 08-2025.

Respectfully submitted,

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